

HOUSE BILL 193

D3

(0lr0333)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegate Rosenberg**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Civil Proceedings – Foreign Defamation Judgments – ~~Enforceability~~**
3 **Recognition, Enforceability, and Bases of Personal Jurisdiction**

4 FOR the purpose of authorizing a court in this State to exercise personal jurisdiction
5 for certain purposes and under certain circumstances over a certain person who
6 obtains a certain foreign defamation judgment; ~~prohibiting recognition of~~
7 ~~certain foreign judgments~~; establishing that certain foreign defamation
8 judgments may not be recognized in this State unless a certain court makes a
9 certain determination; ~~authorizing a court to award costs and reasonable~~
10 ~~attorney's fees to a party opposing recognition or enforcement of a certain~~
11 ~~foreign judgment~~; defining a certain term; providing for the application of this
12 Act; and generally relating to recognition and enforceability of certain foreign
13 defamation judgments and personal jurisdiction over certain persons who obtain
14 certain foreign defamation judgments.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 BY adding to
 2 Article – Courts and Judicial Proceedings
 3 Section 6–103.3 and 10–704(c)
 4 Annotated Code of Maryland
 5 (2006 Replacement Volume and 2009 Supplement)

6 ~~BY repealing and reenacting, with amendments,~~
 7 ~~Article – Courts and Judicial Proceedings~~
 8 ~~Section 10–704~~
 9 ~~Annotated Code of Maryland~~
 10 ~~(2006 Replacement Volume and 2009 Supplement)~~

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Courts and Judicial Proceedings**

14 **6–103.3.**

15 (A) IN THIS SECTION, “DEFAMATION” INCLUDES INVASION OF PRIVACY
 16 BY FALSE FACTS.

17 (B) A COURT MAY EXERCISE PERSONAL JURISDICTION, TO THE
 18 FULLEST EXTENT PERMITTED BY THE UNITED STATES CONSTITUTION, OVER
 19 ANY PERSON WHO OBTAINS A JUDGMENT IN A DEFAMATION PROCEEDING
 20 OUTSIDE THE UNITED STATES AGAINST ANY PERSON WHO IS A RESIDENT OF
 21 THIS STATE OR IS OTHERWISE SUBJECT TO JURISDICTION IN THIS STATE FOR
 22 THE PURPOSE OF PROVIDING DECLARATORY RELIEF WITH RESPECT TO THAT
 23 PERSON’S LIABILITY FOR THE JUDGMENT OR DETERMINING WHETHER THE
 24 JUDGMENT ~~SHOULD~~ MAY NOT BE RECOGNIZED UNDER § 10–704 OF THIS
 25 ARTICLE IF THE RESIDENT OR PERSON SUBJECT TO JURISDICTION IN THIS
 26 STATE:

27 (1) HAS ASSETS IN THIS STATE THAT MIGHT BE USED TO SATISFY
 28 THE FOREIGN DEFAMATION JUDGMENT; OR

29 (2) MAY HAVE TO TAKE ACTIONS IN THIS STATE TO COMPLY WITH
 30 THE FOREIGN DEFAMATION JUDGMENT.

31 10–704.

32 ~~(A) IN THIS SECTION, “DEFAMATION” INCLUDES INVASION OF PRIVACY~~
 33 ~~BY FALSE FACTS.~~

34 ~~[(a)] (B) A foreign judgment is not conclusive if:~~

1 ~~(1) The judgment was rendered under a system which does not provide~~
 2 ~~impartial tribunals or procedures compatible with the requirements of due process of~~
 3 ~~law;~~

4 ~~(2) The foreign court did not have personal jurisdiction over the~~
 5 ~~defendant;~~

6 ~~(3) The foreign court did not have jurisdiction over the subject matter;~~
 7 ~~or~~

8 ~~(4) The judgment was obtained by fraud.~~

9 ~~(b) A foreign judgment [need] MAY not be recognized if:~~

10 ~~(1) The defendant in the proceedings in the foreign court did not~~
 11 ~~receive notice of the proceedings in sufficient time to enable him to defend;~~

12 ~~(2) The cause of action on which the judgment is based is repugnant to~~
 13 ~~the public policy of the State;~~

14 ~~(3) The judgment conflicts with another final and conclusive~~
 15 ~~judgment;~~

16 ~~(4) The proceeding in the foreign court was contrary to an agreement~~
 17 ~~between the parties under which the dispute was to be settled out of court; [or]~~

18 ~~(5) In the case of jurisdiction based only on personal service, the~~
 19 ~~foreign court was a seriously inconvenient forum for the trial of the action;~~

20 **(C) (1) IN THIS SUBSECTION, "DEFAMATION" INCLUDES INVASION OF**
 21 **PRIVACY BY FALSE FACTS.**

22 **(2) A FOREIGN JUDGMENT MAY NOT BE RECOGNIZED IF:**

23 ~~(6)~~ **(I) THE CAUSE OF ACTION RESULTED IN A DEFAMATION**
 24 **JUDGMENT OBTAINED IN A JURISDICTION OUTSIDE THE UNITED STATES,**
 25 **UNLESS THE COURT BEFORE WHICH THE MATTER IS BROUGHT IN THIS STATE**
 26 **FIRST DETERMINES THAT THE DEFAMATION LAW APPLIED IN THE FOREIGN**
 27 **JURISDICTION PROVIDES FOR AT LEAST AS MUCH PROTECTION FOR FREEDOM**
 28 **OF SPEECH AND THE PRESS AS IS PROVIDED BY BOTH THE UNITED STATES**
 29 **CONSTITUTION AND THE MARYLAND CONSTITUTION; OR**

30 ~~(7)~~ **(II) THE CAUSE OF ACTION RESULTED IN A DEFAMATION**
 31 **JUDGMENT ENTERED AGAINST THE PROVIDER OF AN INTERACTIVE COMPUTER**

1 SERVICE, AS DEFINED IN 47 U.S.C. § 230, UNLESS THE COURT BEFORE WHICH
2 THE MATTER IS BROUGHT IN THIS STATE DETERMINES THAT THE JUDGMENT IS
3 CONSISTENT WITH 47 U.S.C. § 230.

4 ~~(C) IN ANY ACTION BROUGHT IN A COURT OF THIS STATE UNDER §~~
5 ~~6-103.3 OF THIS ARTICLE OR TO ENFORCE A FOREIGN JUDGMENT, THE COURT~~
6 ~~MAY AWARD THE PARTY OPPOSING RECOGNITION OR ENFORCEMENT OF THE~~
7 ~~FOREIGN JUDGMENT, IF THE PARTY PREVAILS IN THE ACTION ON A GROUND~~
8 ~~SPECIFIED IN THIS SECTION.~~

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
10 construed to apply only prospectively and may not be applied or interpreted to have
11 any effect on or application to any case filed in a court of this State before the effective
12 date of this Act.

13 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
14 effect October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.